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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,073	04/02/2004	Keith Watson	0F698-71587	2677

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EXAMINER	
LAMBELET, LAWRENCE EMILE	
ART UNIT	**PAPER NUMBER**
1732	

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/817,073	WATSON ET AL.	
	Examiner	Art Unit	
	Lawrence Lambelet	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6-8, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Frihart et al (U.S. Patent 4,725,575).

Regarding Claim 1, Frihart et al, hereafter "Frihart", discloses a method of making a scented media, comprising: Forming/preparing/curing, a silicone rubber matrix having a scented material dispersed/added therein (column 1, lines 34-54 and column 2, lines 18-29). It is noted that scented material corresponds to volatile organic liquid and scented media corresponds to silicone rubber matrix in the reference.

Regarding Claim 3, Frihart discloses liquid silicone as claimed for said elastomeric material (column 1, lines 34-54). It is noted that liquid silicone corresponds to silicone fluid in the reference, the term fluid inherently carrying the interpretation of liquid.

Regarding Claim 6, the limitation of concentrate as recited in the claim, and as referring to a liquid scented material, does not specifically appear in the reference; but, as noted above, the reference teaches an equivalent scented material, said volatile

organic liquid, which posses an inherent property of having a concentrated form, and such a form would be a choice of preparation.

Regarding Claims 7-8, Frihart discloses the addition range of 5-40% as claimed, except that a weight basis is used rather than the volume basis recited (column 2, lines 18-29). It is submitted that volume and weight bases are comparable and interchangeable since the specific gravities of components forming a liquid blend in which there is an implied dispersion would have an inconsequential difference.

Regarding claims 10-13, Frihart discloses applications for said scented media as claimed in the various limitations recited thereunto (column 1, lines 50-54). The reference teaches air fresheners, deodorizers, insect repellants, and pheromone dispensers. The recitation of hunter's mask is broadly interpreted as equivalent to a deodorant, and the recitations of fish and game attractants are broadly interpreted as equivalent to pheromone substances.

Claim 14 is rejected under 35 U.S.C. 102(b) as being antipated by Frihart.

Regarding Claim 14, the discussion above of all claims under this heading demonstrates that Frihart discloses a method for making a scented media as claimed, including the recited steps for forming an elastomeric material, adding a scented material to form the scented media, and curing the scented media.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frihart in view of Chapin et al (U.S. Patent 4,594,380).

Regarding Claim 2, Frihart discloses a method of making a scented media as claimed, and as discussed above under the Claim 1 rejection. Frihart does not disclose polyurethane for the elastomeric material. Chapin et al, "Chapin" hereafter, does disclose polyurethane as claimed (column 3, lines 1-6). Frihart and Chapin are combinable because they are concerned with the same technical field, that of sustained release of an active agent. A person skilled in the art at the time of invention would have found it obvious to use an alternative base material, as taught by Chapin, in the method of Frihart, and would have been motivated to do so because Chapin suggests that polyurethane is an equivalent matrix material.

Regarding Claim 9, Frihart discloses a method of making a scented media as claimed, and as discussed above under the Claim 1 rejection. Frihart does not disclose curing the scented media in a mold. Chapin does disclose a mold for shaping as claimed (column 4, lines 1-6). It is noted that an "appropriate containment means" in the Chapin reference is a broad definition of a mold. A person skilled in the art at the time of invention would have found it obvious to cure said scented media in the manner taught by Chapin, in the method of Frihart, and would have been motivated to do so in order to provide a product in a desired shape/form.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frihart in view of Wong (U.S. Patent 5,438,112).

Regarding Claim 4, Frihart discloses a method of making a scented media with liquid silicone as claimed, and as discussed above under the rejections for Claims 1 and 3. Frihart does not disclose the addition of silicone oil. Wong discloses adding silicone oil to a silicone resin (Abstract). Frihart and Wong are combinable because they are concerned with the same technical field, that of curing a silicone preparation. A person skilled in the art at the time of invention would have found it obvious to plasticize a silicone resin, as taught by Wong, in the method of Frihart, and would have been motivated to do so for the benefit of enhancing processing/formability.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Frihart in view of McDougal (U.S. Patent 4,528,354).

Regarding Claim 5, Frihart discloses a method of making a scented media with liquid silicone as claimed, and as discussed above under the rejections for Claims 1 and 3. Frihart does not disclose the addition of a curing inhibitor. McDougal discloses using an inhibitor to control polymerization (column 4, lines 20-34). It is noted that the reference teaches that inhibitors can be used to control the polymerization reaction, which is the same reaction as curing in this instance. Frihart and McDougal are combinable because they are concerned with the same technical field, that of processing silicone rubber products. A person skilled in the art at the time of invention would have found it obvious to retard curing, as taught by McDougal, in the method of

Frihart, and would have been motivated to do so in order to allow time for molding into a desired shape.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following documents are cited to further show the state of the art with regard molded scent-impregnated structures:

U.S. Patent 6,753,004 to Ollis et al

U.S. Patent 4,802,626 to Forbes et al

U.S. Patent 5,387,622 to Yamamoto

U.S. Patent Application Publication No 2005/0077653

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Lambelet whose telephone number is 571-272-1713. The examiner can normally be reached on 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LEL

MARK EASHOO, PH.D
PRIMARY EXAMINER

26/ Apr 06